

BILL # SB 1038

TITLE: defensive driving school; eligibility

SPONSOR: Huppenthal

STATUS: Senate Engrossed

REQUESTED BY: Senate

PREPARED BY: Kim Hohman

FISCAL ANALYSIS

Description

SB 1038 allows an individual to opt for defensive driving school even if the individual has challenged a civil traffic violation and the court has found in favor of the state.

Estimated Impact

The JLBC Staff cannot determine the state fiscal impact of SB 1038 since it is unknown how many individuals will contest civil traffic violations as a result of the bill. There are, however, potential state revenue and expenditure impacts from SB 1038. Pursuant to statute, defensive driving school participants pay a fee, up to \$20, to state judicial funds. As a result, state revenue could either increase or decrease depending on the bill's impact on the number of individuals attending defensive driving schools.

In addition, Justice of the Peace (JP) salaries are based on total judicial productivity credits which are based on the number of cases handled by each JP. Depending on the increase in the number of cases heard in court, it is possible that some JP salaries could increase as a result of this bill. Pursuant to current session law, the state pays 38.5% of JP salaries from the state General Fund.

According to the Administrative Office of the Courts (AOC) and the League of Arizona Cities and Towns, there could be a significant increase in court trials. In addition, there may be increased costs to local government associated with law enforcement officers being required to testify at these hearings.

The County Supervisors Association (CSA) did not provide an estimate on this bill.

Analysis

Pursuant to A.R.S. § 28-3392, the courts offer defensive driving school as an option for those who have been cited for civil traffic violations and may provide this option to those who have been cited for criminal traffic offenses. Under current law, individuals who receive civil traffic tickets may choose to attend defensive driving school or to contest the ticket in court. Once an individual has chosen to contest the citation, defensive driving school is not typically offered to the defendant. SB 1038 would allow individuals to attend defensive driving school after they have contested the citation in court.

If the defensive driving school option is selected, the driver is assessed a fine which is paid to the defensive driving school provider. The contracted provider then distributes a portion of the defendant's payment to various governmental entities. First, the provider distributes a court diversion fee, which is set by the presiding judge and is likely to be an amount similar to the original ticket. The court then forwards these monies to the city or county General Fund. Second, the defensive driving school contractor retains its fee, which is approximately \$20 to \$25. Third, pursuant to A.R.S. § 12-114, the AOC receives up to a \$15 surcharge on the fees charged by the court for the administration of the Defensive Driving School Program administered by the Supreme Court. These monies are deposited in the state Defensive Driving School Fund. Lastly, a \$5 surcharge assessed on each defensive driving school participant is deposited in the Judicial Collection Enhancement Fund, also administered by the AOC.

(Continued)

Analysis (Continued)

In FY 2004, there were approximately 226,100 people who did not contest their traffic citations and attended defensive driving school instead. If the bill results in more individuals choosing to contest a civil traffic violation, and those individuals' tickets are dismissed, the revenue received by the Defensive Driving School Fund would decrease as a result of this bill. If, however, there are individuals who would have contested their tickets regardless of the change to statute, and these individuals' tickets are not dismissed, offering defensive driving school as an option would result in additional revenue that would not have been received under current law. We cannot predict how many individuals will decide to challenge traffic violations, or whether the courts will be more likely to find in favor of law enforcement or the individual.

Pursuant to A.R.S. § 22-125, the annual salary of each JP is based on the total judicial productivity credits earned by each justice court, and is compiled by the Arizona Supreme Court. The judicial productivity credits are calculated based on specific court caseloads and are used to determine a JP's salary which is a percentage of a Superior Court judge's salary. The salaries of JP's range from \$30,188 to \$84,525, or 25% to 70% of a Superior Court judge's salary (\$120,750). Pursuant to current session law, the state General Fund pays 38.5% of JP salaries. Depending on the number of cases heard in court, it is possible that some JP's could be eligible for higher salaries, which would result in increased costs to the state.

Local Government Impact

The JLBC Staff believes that SB 1038 is likely to result in an increase in court hearings, and therefore increased operational costs for local courts. These types of hearings are typically handled in the municipal or JP courts, so cities and counties could experience increased case processing costs as a result of this bill. The engrossed bill would require individuals contesting their tickets to pay for the associated court costs, if the court finds in favor of the state. In addition, there may be increased costs associated with more police officers required to testify while on duty as well as off-duty, which could result in overtime costs to local government.

In addition, JP salaries are based on total judicial productivity credits which are based on the number of cases handled by each JP. Depending on the increase in the number of cases heard in court, it is possible that some JP salaries could increase as a result of this bill, as they would be eligible for a higher salary range based on their increased workload.

The Arizona League of Cities and Towns believes that the bill will increase local costs by increasing the number of court hearings and by increasing the amount of time police officers would be required to testify in these hearings.

2/18/05